

HOUSE BILL No. 1750

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-1; IC 27-4-1-2; IC 27-5; IC 27-5.1; IC 27-6; IC 27-8-8-2; IC 34-30-17-1.

Synopsis: Farm mutual insurance companies. Replaces and repeals the current law concerning farm mutual insurance companies, providing for standard and extended companies. Makes conforming amendments. Makes a technical change.

Effective: July 1, 2003.

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January 21, 2003, read first time and referred to Committee on Insurance, Corporations and Small Business.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1750

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-1-6-15 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) Except as
3 provided in subsection (b), a domestic mutual company that organized
4 before July 1, 1977, must maintain a surplus of not less than two
5 hundred fifty thousand dollars (\$250,000). This subsection does not
6 apply to a **farm mutual insurance** company that is organized under
7 IC 27-5 (**before its repeal**) or IC 27-5.1.

8 (b) A domestic mutual company that organized before July 1, 1977,
9 must maintain a surplus of not less than:

10 (1) seven hundred fifty thousand dollars (\$750,000), if it markets
11 one (1) or more kinds of insurance under both Class II and Class
12 III, other than Class II(k) insurance;

13 (2) one million dollars (\$1,000,000), if it markets one (1) or more
14 kinds of insurance under Class II, including Class II(k) insurance;
15 or

16 (3) one million dollars (\$1,000,000), if it markets one (1) or more
17 kinds of insurance under both Class II and Class III, including



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Class II(k) insurance.

(c) A domestic mutual company that organized after June 30, 1977, must maintain a surplus of not less than one million two hundred fifty thousand dollars (\$1,250,000). However, when it organizes, it must:

(1) have a surplus of not less than two million dollars (\$2,000,000);

(2) for the one (1) or more kinds of insurance under Class I that it intends to market, have received applications for insurance from not less than four hundred (400) persons, each application for an amount not less than one thousand dollars (\$1,000), and have received the first year's premium due on a policy to be issued on each such application; and

(3) for the one (1) or more kinds of insurance under Class II or Class III that it intends to market, have received applications for insurance covering not less than eight hundred (800) separate risks in not less than forty (40) policies to be issued to not less than forty (40) members, and have received premiums amounting to not less than one hundred thousand dollars (\$100,000) for those policies.

(d) A domestic mutual company must deposit with the department in cash or in obligations of the United States:

(1) twenty-five thousand dollars (\$25,000), if it organized before June 30, 1955;

(2) fifty thousand dollars (\$50,000), if it organized after June 29, 1955, and before March 7, 1967; or

(3) one hundred thousand dollars (\$100,000), if it organized after March 6, 1967.

This subsection does not apply to a **farm mutual insurance** company that is organized under IC 27-5 (**before its repeal**) or IC 27-5.1.

(e) If the commissioner determines that the continued operation of a domestic mutual company may be hazardous to the policyholders or the general public, the commissioner may, upon the commissioner's determination, issue an order requiring the insurer to increase the insurer's capital and surplus based on the type, volume, and nature of the business transacted.

SECTION 2. IC 27-1-6-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. ~~(c)~~ (a) The charter powers and licenses of any domestic insurers authorized to market one or more kinds of insurance or reinsurance under Class II or Class III and meeting the requirements set out in section 14 or 15 of this chapter may be broadened and extended hereunder to include the right, power and authority to make any one or more of the kinds of insurance and



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reinsurance specified in both Class II and Class III of IC 27-1-5-1.

(~~e~~) (b) Any domestic company authorized to insure against loss or damage by fire, which has been actively engaged in the fire insurance business continuously for ten (10) years or more, or whose predecessor or predecessors, if any prior to merger or consolidation, shall have been so engaged for such period, may, if it complies with the provisions of this subsection (~~e~~) and without complying with the capitalization and surplus requirements of section 14 or section 15 of this chapter, insure against loss or damage to dwellings and appurtenant structures and to the contents thereof and any other personal property of a similar nature of the insured or of the members of his household, resulting from any peril, and may, in connection with making such insurance, also make insurance against the legal liability of the insured or of the members of his household, and for any medical, surgical and hospital expenses of any person other than the insured or such members, arising out of nonbusiness pursuits of the insured or such members or out of the condition of, or acts performed by the insured or such members on such dwellings and appurtenant structures and the real estate on which each is located. Where a company is entitled to make such additional insurance solely by virtue of this subsection, (~~e~~); it shall not make such insurance unless it has made reinsurance arrangements satisfactory to the commissioner whereby all of such additional insurance is reinsured with a company which is qualified under IC 27-1 to make reinsurance of such additional kind of insurance. The charter powers and licenses of any domestic insurer meeting the requirements set out in this subsection (~~e~~) may be broadened and extended hereunder to include the right, power and authority to make any one or more of the kinds of insurance permitted by this subsection.

(~~f~~) (c) No policy issued by a mutual company including a ~~farmer's~~ **farm** mutual insurance company, shall be required to contain a provision limiting the time within which suit against the insurer on such policy must be filed.

SECTION 3. IC 27-1-15.6-4, AS ADDED BY P.L.132-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) As used in this section, "insurer" does not include an officer, director, employee, subsidiary, or affiliate of an insurer.

(b) This chapter does not require an insurer to obtain an insurance producer license.

(c) The following are not required to be licensed as an insurance producer:

(1) An officer, director, or employee of an insurer or of an

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insurance producer, if the officer, director, or employee does not receive any commission on policies written or sold to insure risks that reside, are located, or are to be performed in Indiana, and if:

(A) the officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance;

(B) the officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

(C) the officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers and the officer, director, or employee's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.

(2) A person who secures and furnishes information for the purpose of:

(A) group life insurance, group property and casualty insurance, group annuities, group or blanket accident and sickness insurance;

(B) enrolling individuals under plans;

(C) issuing certificates under plans or otherwise assisting in administering plans; or

(D) performing administrative services related to mass marketed property and casualty insurance;

where no commission is paid to the person for the service.

(3) A person identified in clauses (A) through (C) who is not in any manner compensated, directly or indirectly, by a company issuing a contract, to the extent that the person is engaged in the administration or operation of a program of employee benefits for the employer's or association's employees, or for the employees of a subsidiary or affiliate of the employer or association, that involves the use of insurance issued by an insurer:

(A) An employer or association.

(B) An officer, director, or employee of an employer or association.

(C) The trustees of an employee trust plan.

(4) An:

(A) employee of an insurer; or

(B) organization employed by insurers;

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that is engaged in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers, and that is not individually engaged in the sale, solicitation, or negotiation of insurance.

(5) A person whose activities in Indiana are limited to advertising, without the intent to solicit insurance in Indiana, through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of Indiana, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in Indiana.

(6) A person who is not a resident of Indiana and who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that:

(A) the person is otherwise licensed as an insurance producer to sell, solicit, or negotiate the insurance in the state where the insured maintains its principal place of business; and

(B) the contract of insurance insures risks located in that state.

(7) A salaried full-time employee who counsels or advises the employee's employer about the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell or solicit insurance or receive a commission.

(8) A representative of a county ~~farmers farm~~ mutual insurance company.

(9) An officer, employee, or representative of a rental company (as defined in IC 24-4-9-7) who negotiates or solicits insurance incidental to and in connection with the rental of a motor vehicle.

SECTION 4. IC 27-1-20-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. The provisions of this article shall not apply to ~~any farmers' mutual hail insurance company; farmers' mutual fire insurance company; or farmers' mutual windstorm insurance company; a farm mutual insurance company~~ or any similar company organized and operating under IC 27-5 (**before its repeal**) **or IC 27-5.1, nor to any mutual fire insurance company confining its business to the town or city in which its home office is located;** nor shall any provision of this article be construed as repealing any provision of the statutes applicable to the companies and associations referred to in this section.

SECTION 5. IC 27-1-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) This chapter

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applies to all forms of casualty insurance including fidelity, surety, and guaranty bonds, to all forms of motor vehicle insurance, to all forms of fire, marine, and inland marine insurance, and to any and all combinations of the foregoing or parts thereof, on risks or operations in this state, except:

- (1) reinsurance, other than joint reinsurance to the extent stated in section 14 of this chapter;
- (2) accident and health insurance;
- (3) insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies;
- (4) insurance against loss or damage to aircraft or against liability arising out of the ownership, maintenance, or use of aircraft;
- (5) worker's compensation insurance; and
- (6) abstract and title insurance.

(b) Inland marine insurance includes insurance defined by statute, or by interpretation of statute, or if not so defined or interpreted, by ruling of the commissioner of insurance (referred to as the commissioner), or as established by general custom of the business, as inland marine insurance.

(c) This chapter shall not apply to farmers' farm mutual insurance companies organized and operating under IC 27-5 **(before its repeal) or IC 27-5.1** unless and only to the extent that ~~IC 27-5~~ **IC 27-5.1** specifically provides that such companies are subject to

- ~~(1) this chapter.~~
- ~~(2) Acts 1947, c.60; or~~
- ~~(3) Acts 1947, c.111.~~

SECTION 6. IC 27-1-27-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The term "public adjuster" shall include every individual or corporation who, or which, for compensation or reward, renders advice or assistance to the insured in the adjustment of a claim or claims for loss or damages under any policy of insurance covering real or personal property and any person or corporation who, or which, advertises, solicits business, or holds itself out to the public as an adjuster of such claims. However, no public adjuster shall:

- (1) act in any manner in relation to claims for personal injury or automobile property damage; or
- (2) bind the insured in the settlement of claims.

(b) This chapter does not apply to, and the following are not included in the term "public adjuster":



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(1) An attorney at law admitted to practice in the state of Indiana who adjusts insurance losses in the course of the practice of his profession.

(2) An officer, regular salaried employee, or other representative of an insurer or of an attorney in fact of any reciprocal insurer of Lloyd's underwriter licensed to do business in Indiana who adjusts losses arising under his employer's or principal's own policies.

(3) An adjustment bureau or association owned and maintained by insurers to adjust or investigate losses of such insurers, or any regular salaried employee who devotes substantially all of his time to the business of such bureau or association.

(4) Any licensed agent or an authorized insurer or officer or employee of the same who adjusts losses for such insurer, and any agent or representative of a ~~farmers'~~ **farm** mutual insurance company operating under the ~~farmers'~~ **farm** mutual insurance laws of this state on behalf of an insurer.

(5) Any independent adjuster representing an insurer.

SECTION 7. IC 27-4-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. When and as used in this chapter:

(a) The term "person" shall mean any individual, corporation, company including any ~~farmers'~~ **farm** mutual insurance company, association, partnership, firm, reciprocal exchange, inter-insurer, Lloyds insurers, society, fraternal benefit society, lodge, order, council, corps, and any other association or legal entity, engaged in the business of insurance, including but not in limitation of the foregoing, agents, brokers, solicitors, advisors, auditors, and adjusters.

(b) "Department" shall mean the department of insurance of this state created and defined as a department in the state government of the state of Indiana by IC 27-1.

(c) "Commissioner" shall mean the insurance commissioner of this state appointed pursuant to, and on and in whom the powers, duties, management, and control of the department are conferred and vested by, the provisions of IC 27-1.

SECTION 8. IC 27-5.1 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 5.1. FARM MUTUAL INSURANCE COMPANIES

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Assessment" means an amount or a policyholder's share of an amount that a farm mutual insurance company determines

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is necessary for any of the following:

(1) To pay the farm mutual insurance company's accrued liabilities.

(2) To meet or defray the farm mutual insurance company's anticipated needs.

(3) To add to or restore the policyholder surplus of the farm mutual insurance company.

Sec. 3. "Certificate of authority" has the meaning set forth in IC 27-1-2-3(v).

Sec. 4. "Commissioner" means the insurance commissioner appointed under IC 27-1-1-2.

Sec. 5. "Department" means the department of insurance created by IC 27-1-1-1.

Sec. 6. "Extended company" means a farm mutual insurance company that is authorized to provide coverage as described in IC 27-5.1-4.

Sec. 7. "Farm mutual insurance company" means a company (as defined in IC 27-1-2-3) that is authorized to provide insurance coverage under this article.

Sec. 8. "First class city" refers to a first class city as classified under IC 36-4-1-1.

Sec. 9. "Initial charge" means a charge that is collected by a farm mutual insurance company before or at the time of the issuance or renewal of an insurance policy under this article.

Sec. 10. "Person" means an individual or a business entity.

Sec. 11. "Policyholder" means a person who is insured by a farm mutual insurance company.

Sec. 12. "Policyholder surplus" means a fund consisting of the accumulated assets of a farm mutual insurance company that exceed the farm mutual insurance company's accrued losses and expenses.

Sec. 13. "Premium" means money given in consideration to a farm mutual insurance company on account of or in connection with an insurance policy for a specified policy period.

Sec. 14. "Premium plus assessment" refers to an insurance policy under which the policyholder is:

(1) obligated to pay a premium; and

(2) subject to potential assessment.

Sec. 15. "Principal office" means the primary office maintained by a farm mutual insurance company in Indiana.

Sec. 16. "Standard company" means a farm mutual insurance company that may provide insurance coverage under IC 27-5.1-3.

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The term does not include an extended company.

Chapter 2. Farm Mutual Insurance Companies

Sec. 1. This chapter applies to a farm mutual insurance company regulated under this article.

Sec. 2. (a) A farm mutual insurance company that holds a certificate of authority to do business in Indiana on June 30, 2003, is a standard company under this article unless the company:

(1) elects to become an extended company under IC 27-5.1-4; and

(2) is authorized by the commissioner to do business as an extended company.

(b) A standard company under subsection (a) may elect to become an extended company at any time by:

(1) complying with IC 27-5.1-4-2(b); and

(2) submitting to an exam that may be conducted at the discretion of the commissioner.

(c) An election made under this section is effective upon the date the commissioner issues a new certificate of authority.

Sec. 3. (a) If a proposed farm mutual insurance company does not hold a certificate of authority to do business in Indiana on June 30, 2003, an application may be made to the commissioner on a form prescribed by the commissioner for a certificate of authority for the proposed farm mutual insurance company to do business in Indiana as one (1) of the following:

(1) A standard company.

(2) An extended company.

(b) Three (3) copies of the application described in subsection (a) must be submitted to the commissioner. The application must contain the following concerning the proposed farm mutual insurance company:

(1) The name.

(2) The location and address of the principal office.

(3) The names and addresses of the officers and directors.

(4) A copy of the articles of incorporation.

(5) A copy of the bylaws.

(c) A standard company, not earlier than three (3) years after it is granted a certificate of authority to do business as a standard company, may elect to obtain a certificate of authority to do business as an extended company if the standard company:

(1) has an annual direct written premium of more than one million dollars (\$1,000,000); and

(2) complies with IC 27-5.1-4-2.

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1 **Sec. 4. A farm mutual insurance company that is established**
 2 **after June 30, 2003, must have at least one hundred thousand**
 3 **dollars (\$100,000) in annual direct written premiums before**
 4 **issuing an insurance policy.**

5 **Sec. 5. (a) A farm mutual insurance company has all the powers,**
 6 **rights, privileges, duties, and obligations of a company organized**
 7 **under IC 27-1-6 except where IC 27-1-6 is inconsistent with this**
 8 **article.**

9 **(b) A farm mutual insurance company has the following:**

10 **(1) The power to borrow money.**

11 **(2) The ability to sue or be sued.**

12 **(3) The power to make contracts of insurance or indemnity**
 13 **with:**

14 **(A) a person;**

15 **(B) a firm;**

16 **(C) a public corporation;**

17 **(D) a private corporation;**

18 **(E) a board;**

19 **(F) an association;**

20 **(G) an estate; or**

21 **(H) a trustee or legal representative of an estate.**

22 **(4) The power to cede or obtain reinsurance from a company**
 23 **legally operating in Indiana.**

24 **(5) The power to participate with a financially stable**
 25 **insurance company in:**

26 **(A) a reinsurance pool;**

27 **(B) a plan for reinsurance; or**

28 **(C) catastrophe protection.**

29 **(6) The power to determine the qualifications and the manner**
 30 **by which to admit or withdraw policyholders.**

31 **(7) The power to use a common seal, which the farm mutual**
 32 **insurance company may change or alter.**

33 **(8) The power to purchase, lease, hold, and dispose of:**

34 **(A) real property; and**

35 **(B) personal property;**

36 **in the farm mutual insurance company's name for use in**
 37 **carrying out the purposes of the farm mutual insurance**
 38 **company.**

39 **(9) The power to classify risks according to the hazards**
 40 **involved.**

41 **(10) The power to establish rates according to the**
 42 **classification of risk.**

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(11) The power to determine rules and regulations on the acceptability of risk and hazards insured.

(12) The power to determine the cost of insurance issued by the farm mutual insurance company and the adjustment and payment of losses.

(13) The power to determine the compensation of directors and officers of the farm mutual insurance company.

(14) The power to require that directors and officers of the farm mutual insurance company be bonded in the performance of the duties of the directors and officers.

(15) The power to adopt or amend bylaws and articles of incorporation of the farm mutual insurance company.

(16) The power to adopt or amend policy forms and application forms used by the farm mutual insurance company.

Sec. 6. A farm mutual insurance company with an annual direct written premium of more than ten million dollars (\$10,000,000) may not function as a farm mutual insurance company and shall be regulated as a multiple line insurance company described in IC 27-1-6-16.

Sec. 7. Except as provided in section 8 of this chapter, a farm mutual insurance company that operates under this article is exempt from any other Indiana insurance law unless the law expressly states that the law is applicable to a farm mutual insurance company.

Sec. 8. The following provisions apply to standard companies and extended companies:

(1) IC 27-1-3.

(2) IC 27-1-5-3.

(3) IC 27-1-6-15.

(4) IC 27-1-7-14 through IC 27-1-7-16.

(5) IC 27-1-7-21 through IC 27-1-7-23.

(6) IC 27-1-9.

(7) IC 27-1-13-3 through IC 27-1-13-4.

(8) IC 27-1-13-6 through IC 27-1-13-9.

(9) IC 27-1-20-1.

(10) IC 27-1-20-4.

(11) IC 27-1-20-6.

(12) IC 27-1-20-9 through IC 27-1-20-11.

(13) IC 27-1-20-14.

(14) IC 27-1-20-19 through IC 27-1-20-21.3.

(15) IC 27-1-20-23.

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1 (16) IC 27-1-20-30.

2 (17) IC 27-1-22.

3 (18) IC 27-4-1.

4 (19) IC 27-6-1.1-2.

5 (20) IC 27-7-2.

6 (21) IC 27-9.

7 Sec. 9. A farm mutual insurance company may engage in the
8 business of insurance in any location in Indiana other than a first
9 class city. However, a farm mutual insurance company may
10 continue to insure property in a first class city in Indiana if the
11 insurance policy under which the property is insured was
12 originally issued before July 1, 2003, or if the insurance policy was
13 originally issued before the city became a first class city.

14 Sec. 10. (a) A farm mutual insurance company shall hold an
15 annual meeting of the policyholders of the farm mutual insurance
16 company on the date, time, and location set forth in the articles of
17 incorporation of the farm mutual insurance company. If the
18 articles of incorporation do not specify the date, time, and location
19 of the annual meeting, the meeting shall be held on the first
20 Monday in April at the registered principal office of the farm
21 mutual insurance company.

22 (b) A quorum for purposes of an annual policyholder meeting
23 must be defined in a farm mutual insurance company's articles of
24 incorporation.

25 (c) Each policyholder of a farm mutual insurance company is
26 entitled to one (1) vote on any issue voted upon at a policyholder
27 meeting.

28 Sec. 11. (a) A farm mutual insurance company shall elect a
29 board of directors consisting of at least five (5) policyholders.

30 (b) To be elected to the board of directors of a farm mutual
31 insurance company, an individual must be the owner of an
32 insurance policy issued by the farm mutual insurance company.

33 Sec. 12. (a) Unless a farm mutual insurance company's articles
34 of incorporation specify otherwise, a director of a farm mutual
35 insurance company must be elected at the company's annual
36 policyholder meeting by the affirmative vote of a majority of:

37 (1) the policyholders present and voting; and

38 (2) the policyholders voting by proxy, if voting by proxy is
39 allowed by the company's articles of incorporation.

40 (b) The term of office of a director must be at least one (1) year
41 but not more than five (5) years. A farm mutual insurance
42 company's articles of incorporation may provide for the

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1 classification of directors into three (3) groups, and the terms of the
 2 directors may be staggered. A vacancy on the board of directors
 3 may be filled for the unexpired term through an appointment made
 4 by the remaining directors.

5 (c) The board of directors of a farm mutual insurance company
 6 shall, by vote of a majority of the directors, elect the officers
 7 designated in the farm mutual insurance company's bylaws. The
 8 directors may also elect any additional officers that the directors
 9 determine are necessary. An officer elected under this subsection
 10 is not required to be a director.

11 (d) The term of an officer elected under subsection (c) may not
 12 be less than one (1) year or more than three (3) years. An outgoing
 13 officer shall hold office until the officer's successor is either elected
 14 or selected and qualified.

15 (e) The board of directors of a farm mutual insurance company
 16 shall hold a separate meeting of the board of directors immediately
 17 after the farm mutual insurance company's annual meeting.

18 Sec. 13. (a) Unless a farm mutual insurance company's articles
 19 of incorporation specify otherwise, the articles of incorporation of
 20 a farm mutual insurance company may be amended by an
 21 affirmative vote of two-thirds (2/3) of the farm mutual insurance
 22 company's policyholders who are voting in person or by proxy at
 23 any policyholder meeting if the policyholders are given at least
 24 thirty (30) days notice of:

25 (1) the meeting; and

26 (2) the subject matter of the proposed amendments.

27 (b) After a farm mutual insurance company has adopted an
 28 amendment to the farm mutual insurance company's articles of
 29 incorporation, three (3) copies of the amendment must be filed with
 30 the commissioner.

31 (c) The commissioner shall determine whether to approve an
 32 amendment specified under subsection (b) and, if the amendment
 33 is approved, shall return a copy of the filed amendment and a
 34 certificate of approval to the farm mutual insurance company.

35 Sec. 14. (a) Bylaws of a farm mutual insurance company may be
 36 amended by the company in accordance with the company's
 37 articles of incorporation. All amendments to the bylaws must be
 38 filed with the commissioner.

39 (b) Bylaws of a farm mutual insurance company may not be
 40 inconsistent with this article, other applicable laws, or the
 41 company's articles of incorporation.

42 Sec. 15. The commissioner may charge a farm mutual insurance

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1 company a reasonable fee, as provided in IC 27-1-3-15, for a filing
2 under this article.

3 **Sec. 16. (a)** A farm mutual insurance company may not deliver
4 or issue for delivery an insurance policy or an endorsement or a
5 rider to an insurance policy until a copy of the form and the rates
6 charged for the insurance policy are filed with and approved by the
7 commissioner.

8 **(b)** A farm mutual insurance company may use any form or rate
9 filed with the commissioner unless the commissioner notifies the
10 company in writing that the form is disapproved not more than
11 thirty (30) days after the commissioner's receipt of the rate or form
12 filing. The commissioner may disapprove a rate or form for the
13 following reasons:

14 **(1)** An inconsistency with this article or another applicable
15 state law.

16 **(2)** A provision that is:

17 **(A)** deceptive;

18 **(B)** ambiguous; or

19 **(C)** misleading.

20 **(c)** If the commissioner disapproves a rate or form under this
21 section, the commissioner shall notify the farm mutual insurance
22 company of the reason that the rate or form was disapproved. The
23 farm mutual insurance company may request a hearing before the
24 commissioner under IC 4-21.5 concerning the disapproval.

25 **(d)** A farm mutual insurance company may seek judicial review
26 under IC 4-21.5-5 of the commissioner's final disapproval of a rate
27 or form under this section.

28 **(e)** The commissioner may charge a farm mutual insurance
29 company a reasonable fee as provided in IC 27-1-3-15 for the filing
30 of a rate or form.

31 **Sec. 17. (a)** The commissioner may examine the affairs of a farm
32 mutual insurance company under IC 27-1-3.1.

33 **(b)** The commissioner may take an action that may protect a
34 policyholder's interest if the commissioner determines that a farm
35 mutual insurance company conducts business in a manner that is:

36 **(1)** contrary to law applying to a farm mutual insurance
37 company; or

38 **(2)** detrimental to policyholder interests.

39 **Sec. 18. (a)** If the commissioner determines from:

40 **(1)** a statement filed by a farm mutual insurance company;

41 **(2)** an examination under section 17 of this chapter; or

42 **(3)** other information obtained by the commissioner;

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that a farm mutual insurance company is conducting business in an unsafe manner or that a farm mutual insurance company's assets are insufficient to justify continuing the business, the commissioner shall send written notice of the commissioner's concerns regarding the farm mutual insurance company to the officers and directors of the farm mutual insurance company.

(b) Not more than thirty (30) days after receiving a notice under subsection (a), the farm mutual insurance company's officers and directors shall:

- (1) remedy; or
- (2) establish a plan to remedy;

the commissioner's concerns.

(c) If:

- (1) a farm mutual insurance company does not remedy or establish a plan to remedy the commissioner's concerns under subsection (b); or
- (2) the commissioner determines that the continuation of a farm mutual insurance company is not in the best interests of the company's policyholders;

the commissioner shall institute proceedings in the circuit court of the county in which the farm mutual insurance company has its principal office to enjoin the farm mutual insurance company from conducting any further business transactions.

(d) If the commissioner seeks a permanent injunction against a farm mutual insurance company under subsection (c), the commissioner shall also institute proceedings to settle and wind up the affairs of the farm mutual insurance company and liquidate and dissolve the farm mutual insurance company, as provided in IC 27-9.

Sec. 19. (a) A person, including a person described in subsection (b), that has a risk that is insurable under this article in a territory in which a farm mutual insurance company operates may apply for insurance coverage with the farm mutual insurance company. If the farm mutual insurance company accepts the person as a policyholder, the person becomes a policyholder of the farm mutual insurance company and is entitled to all the rights and privileges of a policyholder.

(b) Any of the following that own property within the territory of a farm mutual insurance company may apply for insurance, enter into an agreement for a policy, and hold a policy issued by a farm mutual insurance company:

- (1) A corporation.

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1 (2) An estate.

2 (3) An association.

3 (c) An officer, a trustee, a board member, or a legal
4 representative of an entity described in subsection (b) may be
5 recognized as acting for or on behalf of the entity for the purpose
6 of membership.

7 Sec. 20. A person that solicits or negotiates insurance on behalf
8 of a farm mutual insurance company must be licensed as an
9 insurance producer under IC 27-1-15.6.

10 Sec. 21. (a) Two (2) or more farm mutual insurance companies
11 may merge into one (1) farm mutual insurance company upon
12 approval of a merger plan by the policyholders of each farm
13 mutual insurance company as provided in subsection (b).

14 (b) Before a merger described in subsection (a) may take place:

15 (1) the board of directors of each farm mutual insurance
16 company must approve a merger plan; and

17 (2) the merger plan must be approved by the affirmative vote
18 of two-thirds (2/3) of the policyholders of each farm mutual
19 insurance company who vote in person or by proxy.

20 (c) Before a meeting at which a proposed merger under this
21 section may be considered:

22 (1) the policyholders of a farm mutual insurance company for
23 which the merger is proposed must be provided, by first class
24 mail:

25 (A) written notice of the date, time, and location of the
26 meeting;

27 (B) written notice that a proposed merger will be discussed
28 and voted on at the meeting; and

29 (C) a copy or summary of the merger plan; and

30 (2) a general notice stating:

31 (A) the date, time, and location of the meeting; and

32 (B) that a proposed merger or transfer will be discussed
33 and voted on at the meeting;

34 must be published in a newspaper of general circulation in the
35 county in which the principal office of the farm mutual
36 insurance company is located.

37 Sec. 22. (a) Each farm mutual insurance company that decides
38 to merge under section 21 of this chapter must file the following
39 documents with the commissioner:

40 (1) A petition for merger.

41 (2) The farm mutual insurance company's merger plan.

42 (3) Articles of merger.

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(4) A copy of the minutes of a meeting at which the merger plan was approved.

(5) Proof of compliance with section 21 of this chapter.

(b) The commissioner shall:

(1) review a filing submitted under subsection (a); and

(2) schedule a hearing under IC 4-21.5 if the commissioner considers a hearing necessary.

The commissioner may waive a hearing under this subsection if the commissioner determines that a proposed merger does not prejudice the interests of policyholders of the farm mutual insurance company.

(c) If the commissioner determines under subsection (b) that a hearing is necessary, the commissioner shall provide written notice of the hearing to the farm mutual insurance company that filed the petition for merger. The commissioner may require the farm mutual insurance company to provide the farm mutual insurance company's policyholders with written notice of the hearing, including the date, time, and place of the hearing.

(d) If the commissioner requires a farm mutual insurance company to provide its policyholders with notice of a hearing under subsection (c), the notice must meet the following requirements:

(1) Be published in at least two (2) daily newspapers that the commissioner may designate.

(2) Be published in the newspapers designated under subdivision (1):

(A) not less than one (1) time per week;

(B) for two (2) successive weeks; and

(C) on the same day of the week.

(3) The last publication of notice must appear not more than five (5) calendar days before the date of the hearing.

(e) The commissioner may require a farm mutual insurance company to provide more notice than is required by subsection (d) if the commissioner determines that more notice is required under the circumstances concerning the farm mutual insurance company.

(f) In a hearing conducted under this section, the commissioner may examine a farm mutual insurance company's business affairs by:

(1) requiring and compelling the production of documents, records, books, papers, contracts, or other evidence; and

(2) compelling the attendance of, and examining under oath, a director, an officer, an agent, an employee, a solicitor, or an

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1 attorney of the farm mutual insurance company, or another
2 person.

3 (g) A person who has an interest in a hearing conducted under
4 this section may appear and testify at the hearing.

5 (h) The commissioner shall approve and authorize a proposed
6 merger if the commissioner determines the following:

7 (1) That the interests of policyholders of the merging farm
8 mutual insurance companies are properly protected.

9 (2) That a reasonable objection to the proposed merger does
10 not exist.

11 (i) The commissioner may order a modification of the merger
12 plan or articles of merger for a proposed merger if the
13 commissioner determines that the modification is in the best
14 interest of policyholders.

15 (j) The commissioner may hire experts the commissioner
16 considers necessary to review a merger plan filed under this
17 section.

18 (k) A farm mutual insurance company that files a petition for
19 merger shall pay the costs of a hearing under this section.

20 Sec. 23. (a) The commissioner may establish the time frame in
21 which a farm mutual insurance company must perform the terms
22 of a merger plan approved under section 22 of this chapter.

23 (b) After a farm mutual insurance company that is a party to a
24 merger under sections 21 and 22 of this chapter performs the terms
25 of the merger plan, the surviving farm mutual insurance company
26 shall file with the commissioner written notice of the surviving
27 farm mutual insurance company's compliance with the merger
28 plan.

29 (c) The commissioner shall determine whether the terms of a
30 merger plan are performed adequately by a farm mutual insurance
31 company that is a party to a merger under sections 21 and 22 of
32 this chapter. If the commissioner determines that the terms of the
33 merger plan are met, the commissioner shall issue the following to
34 the surviving farm mutual insurance company:

35 (1) A certified copy of the certificate of merger.

36 (2) A certified copy of the articles of merger.

37 (d) The commissioner may charge a farm mutual insurance
38 company the fee set forth in IC 27-1-3-15 for a filing made under
39 this section.

40 Sec. 24. Upon the commissioner's issuance of a certificate of
41 merger under section 23 of this chapter, the farm mutual insurance
42 companies that are parties to the merger plan become a single

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1 surviving farm mutual insurance company. The separate existence
 2 of each farm mutual insurance company that is a party to the
 3 merger plan ceases upon the issuance of the certificate of merger.

4 **Sec. 25. (a)** A person that intends to enter into a contract for the
 5 exclusive or dominant right to manage or control a farm mutual
 6 insurance company shall file notice of the contract with the
 7 commissioner at least thirty (30) days before entering into the
 8 contract.

9 **(b)** The commissioner may approve a contract or proposed
 10 contract described in subsection (a) only if the contract is not
 11 detrimental to:

12 (1) the policyholders of the farm mutual insurance company;

13 or

14 (2) the public.

15 **(c)** If the commissioner disapproves a contract or proposed
 16 contract described in subsection (a), the commissioner shall
 17 provide written notice of the disapproval to the parties to the
 18 contract. A person that entered into a contract described in
 19 subsection (a) may not manage or control the farm mutual
 20 insurance company under the contract after receiving notice of the
 21 commissioner's disapproval of the contract.

22 **(d)** A person that enters into a contract for the exclusive or
 23 dominant right to manage or control a farm mutual insurance
 24 company is the managing general agent (as defined in
 25 IC 27-1-33-4) of the farm mutual insurance company and shall
 26 comply with the requirements that apply to a managing general
 27 agent under IC 27.

28 **Sec. 26.** If the commissioner determines, after notice and a
 29 hearing under IC 4-21.5, that a farm mutual insurance company
 30 has violated a provision of this article or a rule or order issued
 31 under this article, the commissioner may issue an order requiring
 32 the farm mutual insurance company to refrain from the unlawful
 33 practice or to take an affirmative action that the commissioner
 34 considers necessary to carry out the purposes of this article.

35 **Sec. 27. (a)** A decision, a determination, or an order of the
 36 commissioner under section 26 of this chapter is subject to judicial
 37 review under IC 4-21.5-5.

38 **(b)** If a farm mutual insurance company does not seek judicial
 39 review of the commissioner's determination to issue an order
 40 under section 26 of this chapter less than thirty (30) days after the
 41 commissioner notifies the farm mutual insurance company of the
 42 commissioner's determination, the order is final.

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(c) If a farm mutual insurance company seeks judicial review of the commissioner's determination under section 26 of this chapter and the commissioner's determination is upheld, the order is final.

Sec. 28. If a farm mutual insurance company willfully violates a provision of an order under section 26 of this chapter, the commissioner may do the following:

(1) Impose a civil penalty on the farm mutual insurance company of not more than ten thousand dollars (\$10,000).

(2) Suspend or revoke the farm mutual insurance company's certificate of authority.

(3) Institute proceedings to enjoin the farm mutual insurance company from conducting further business.

(4) Institute proceedings to wind up the affairs of the farm mutual insurance company.

Sec. 29. (a) A farm mutual insurance company may not waive:

(1) a term of an insurance policy; or

(2) a right or defense of the farm mutual insurance company; unless the farm mutual insurance company states in a letter or other written or printed document to a policyholder that the farm mutual insurance company intends to specifically waive the term, right, or defense.

(b) A letter or other written or printed document required under subsection (a) must include the signature of an officer or other representative of the farm mutual insurance company who is authorized to execute the particular type of waiver.

(c) A letter or other written or printed document under this section is the only admissible evidence of a waiver by the farm mutual insurance company.

Sec. 30. (a) A policyholder of a farm mutual insurance company operating on a premium plus assessment basis under this article is liable for the policyholder's share of the amount necessary to:

(1) pay the losses and necessary expenses incurred by the farm mutual insurance company; and

(2) maintain an adequate reserve or safety fund as determined by the farm mutual insurance company's directors; while the policyholder's insurance policy is in effect.

(b) Notwithstanding subsection (a), a farm mutual insurance company shall limit a policyholder's contingent liability during any one (1) year to an amount not to exceed the limitation set forth in the farm mutual insurance company's bylaws. The limitation set forth in the farm mutual insurance company's bylaws under this subsection must be an amount equal to not less than three percent

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(3%) of the insurance carried by the policyholder.

Sec. 31. (a) A farm mutual insurance company may collect an assessment from a policyholder in the manner prescribed by the farm mutual insurance company's bylaws.

(b) After a farm mutual insurance company that operates on a premium plus assessment basis receives:

(1) notice of a loss or damage to a policyholder's property; or

(2) a judgment against the farm mutual insurance company; the directors of the farm mutual insurance company shall verify the loss, damage, or judgment and shall, subject to the limitation set forth in the farm mutual insurance company's bylaws under section 30 of this chapter, assess each policyholder an amount proportionate to the amount of risk the policyholder has with the farm mutual insurance company.

Sec. 32. (a) If a policyholder is assessed and fails to pay the assessment, the farm mutual insurance company may, upon providing written notice of failure to pay:

(1) suspend the farm mutual insurance company's liability for loss under the policyholder's insurance policy for the time during which the assessment is not paid; or

(2) cancel the policyholder's insurance policy if the assessment is not paid less than thirty (30) days after notice of the assessment is sent to the policyholder.

The farm mutual insurance company may deduct the assessment from the policyholder's deposit before returning the remainder of a deposit, if any, to the policyholder.

(b) If an assessment is paid by a policyholder after a farm mutual insurance company takes an action under subsection (a), the farm mutual insurance company may reinstate the policyholder's insurance policy effective beginning on the date on which the payment is received, but a deduction or credit may not be made to an assessment because of the suspension of the insurance policy.

(c) A farm mutual insurance company may file an action to compel a policyholder to pay an assessment.

Sec. 33. (a) A policyholder is not liable for an assessment of losses or expenses that are incurred by a farm mutual insurance company after the policyholder has terminated the policyholder's insurance policy.

(b) A former policyholder is not liable for an assessment for obligations incurred by a farm mutual insurance company before the policyholder terminated the insurance policy on which the

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assessment is made unless the farm mutual insurance company gives the former policyholder notice of the assessment less than one (1) year after the date of termination of the insurance policy.

Sec. 34. (a) A premium plus assessment insurance policy must expressly and prominently state on the face page of the insurance policy that the insurance policy is a premium plus assessment insurance policy.

(b) A suit or action for a loss under a premium plus assessment insurance policy may not be commenced until:

(1) the loss is due in accordance with the premium plus assessment insurance policy; or

(2) not less than sixty (60) days after proof of loss was given to the farm mutual insurance company that issued the premium plus assessment insurance policy.

(c) Requirements that a policyholder must meet to sustain a legal cause of action under this section must be disclosed clearly and prominently in the premium plus assessment insurance policy.

(d) Notwithstanding IC 34-11-2-11, the statute of limitations for a claim on a premium plus assessment insurance policy under this section is two (2) years after the date of the loss.

(e) The statute of limitations for a claim on a nonassessment insurance policy is subject to the statutes of limitations applicable to a similar cause of action under state law.

Sec. 35. (a) A farm mutual insurance company that operates on a premium plus assessment basis must pay losses and judgments of the farm mutual insurance company from premiums received or amounts collected on promissory notes. The amount:

(1) deducted from a policyholder's premium paid; or

(2) demanded from a policyholder's promissory note;

must bear the same relationship to the total loss as the policyholder's total premium bears to the total premiums collected in the calendar year that the loss is incurred.

(b) If funds collected under subsection (a) are insufficient to cover a loss or judgment, the directors of the farm mutual insurance company may, subject to the limitation set forth in the farm mutual insurance company's bylaws under section 30 of this chapter, assess each policyholder in the same manner. However, a farm mutual insurance company may not assess policyholders more than one (1) time in a calendar year for losses incurred by the farm mutual insurance company.

Sec. 36. (a) A farm mutual insurance company may borrow money for the payment of accrued losses and expenses.

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(b) A farm mutual insurance company that borrows money under subsection (a) shall assess policyholders the full amount necessary to fully repay the loan in the assessment immediately following the date the money is borrowed. Unless the commissioner authorizes a longer period, the assessment must be levied not more than twelve (12) months after the losses or expenses paid by the farm mutual insurance company through the loan are incurred.

Sec. 37. (a) A farm mutual insurance company may cancel, in whole or in part, a policyholder's insurance policy after giving the policyholder written notice of the cancellation as follows:

(1) The written notice must be delivered or mailed to the policyholder at the last known address of the policyholder.

(2) The written notice must specify the effective date of the cancellation.

(3) Upon request of the policyholder, the written notice must be accompanied by a written explanation of the specific reasons for the cancellation.

(b) A farm mutual insurance company shall provide the written notice specified in subsection (a) at least:

(1) ten (10) days before canceling the insurance policy, if the cancellation is for nonpayment of premium;

(2) twenty (20) days before canceling the insurance policy, if the cancellation occurs more than sixty (60) days after the date of issuance of the policy; and

(3) ten (20) days before canceling the insurance policy, if the cancellation occurs less than sixty-one (61) days after the date of issuance of the policy.

(c) If the insurance policy was procured by an independent insurance producer licensed in Indiana, the farm mutual insurance company shall deliver or mail notice of cancellation to the insurance producer not less than ten (10) days before the farm mutual insurance company delivers or mails the notice to the policyholder, unless the obligation to notify the insurance producer is waived in writing by the insurance producer.

Sec. 38. A farm mutual insurance company may vote to discontinue operations and settle its affairs under IC 27-1-10.

Sec. 39. A director, an officer, a member, an agent, or an employee of a farm mutual insurance company who knowingly or intentionally, directly or indirectly, uses or employs, or allows another person to use or employ, money, funds, securities, or assets of the farm mutual insurance company for private profit or gain commits a Class C felony.



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1 **Sec. 40. This article does not prohibit a farm mutual insurance**
 2 **company from doing the following:**

- 3 (1) Distributing underwriting or investment gain to
 4 policyholders of a farm mutual insurance company.
 5 (2) Accumulating a reasonable policyholder surplus for the
 6 payment of losses or other expenses.

7 **Sec. 41. The commissioner may adopt rules under IC 4-22-2 to**
 8 **implement this article.**

9 **Chapter 3. Standard Farm Mutual Insurance Companies**

10 **Sec. 1. (a) This chapter supplements the requirements set forth**
 11 **for a standard company in IC 27-5.1-2.**

12 (b) A standard company may not insure a policyholder of the
 13 farm mutual insurance company:

- 14 (1) against loss to a motor vehicle owned by the policyholder
 15 from peril;
 16 (2) against liability resulting from the use of a motor vehicle
 17 owned by the policyholder;
 18 (3) for property loss in connection with a specific loan or
 19 other credit transaction; or
 20 (4) for personal, commercial, and farm liability.

21 **Sec. 2. A standard company that is issued a certificate of**
 22 **authority under this article may:**

- 23 (1) perform the business of insurance on:
 24 (A) an assessable;
 25 (B) a mutual; and
 26 (C) a nonprofit;
 27 basis;
 28 (2) insure the property of policyholders of the standard
 29 company against loss or damage that is caused by:
 30 (A) fire;
 31 (B) windstorm;
 32 (C) causes specified under an extended coverage provision;
 33 and
 34 (D) other perils that are not specifically excluded in the
 35 policy form; and
 36 (3) insure the property of policyholders of the standard
 37 company against:
 38 (A) loss of use;
 39 (B) loss of occupancy;
 40 (C) loss of rents; and
 41 (D) additional expenses;
 42 that result from direct loss or damage to covered property.

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1 **Sec. 3. (a) A standard company may not insure property located**
 2 **outside the standard company's territory, as described in the**
 3 **standard company's articles of incorporation, unless the standard**
 4 **company meets the following requirements for expansion:**

5 **(1) A standard company with annual direct written premiums**
 6 **that total not less than one hundred thousand dollars**
 7 **(\$100,000) may expand the territory in which the standard**
 8 **company insures property to not more than ten (10) counties**
 9 **if the expansion is approved by the affirmative vote of a**
 10 **majority of the standard company's:**

11 **(A) board of directors; or**

12 **(B) policyholders present and voting at a meeting of the**
 13 **policyholders.**

14 **(2) A standard company with annual direct written premiums**
 15 **that total not less than two hundred fifty thousand dollars**
 16 **(\$250,000) may expand the territory in which the standard**
 17 **company insures property to more than ten (10) counties if**
 18 **the expansion is approved by the affirmative vote of a**
 19 **majority of the standard company's:**

20 **(A) board of directors; or**

21 **(B) policyholders present and voting at a meeting of the**
 22 **policyholders.**

23 **(b) The net retention per risk of a standard company may not**
 24 **exceed two-tenths percent (0.2%) of the standard company's**
 25 **insurance in force.**

26 **(c) A standard company shall make investments in accordance**
 27 **with IC 27-1-13-3.**

28 **Sec. 4. A standard company may issue an insurance policy**
 29 **insuring against loss or damage to property of a policyholder of the**
 30 **standard company from the perils specified in section 2 of this**
 31 **chapter in a county located in Indiana if the standard company**
 32 **maintains a policyholder surplus or reinsurance that the**
 33 **commissioner determines is sufficient to protect the financial**
 34 **stability of the standard company.**

35 **Sec. 5. (a) A standard company shall, not later than March 1,**
 36 **prepare and file with the commissioner an annual statement:**

37 **(1) that is on a form prescribed by the commissioner;**

38 **(2) that is verified by an affidavit of the:**

39 **(A) president; and**

40 **(B) secretary;**

41 **of the board of the standard company and individuals who are**
 42 **authorized to do business on behalf of the standard company;**

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and

(3) that reflects the financial condition of the standard company as of the end of the calendar year immediately preceding the date of the annual statement.

(b) An annual statement prepared and filed under subsection (a) must be presented at the annual meeting of the standard company.

(c) An annual statement filed under subsection (a) must be accompanied by the filing fee set forth under IC 27-1-3-15.

Chapter 4. Extended Farm Mutual Insurance Companies

Sec. 1. An extended company is subject to the requirements of IC 27-5.1-2 and this chapter.

Sec. 2. (a) A farm mutual insurance company that was authorized to provide insurance in Indiana on June 30, 2003, may elect to obtain a certificate of authority as an extended company.

(b) An election under subsection (a) is made by:

(1) an affirmative vote by the board of directors of the farm mutual insurance company:

(A) on a resolution to convert to an extended company; and

(B) on an amendment of the articles of incorporation of the farm mutual insurance company; and

(2) filing:

(A) the resolution;

(B) the amended articles of incorporation; and

(C) other information that the commissioner considers necessary for review;

with the commissioner.

(c) The commissioner shall, upon:

(1) receiving a filing specified under subsection (b)(2); and

(2) determining that the farm mutual insurance company is in compliance with the requirements of this article and other applicable law;

issue an amended certificate of authority to the farm mutual insurance company authorizing the farm mutual insurance company as an extended company.

(d) A farm mutual insurance company, after receiving an amended certificate of authority under subsection (c):

(1) is subject to the requirements of this chapter; and

(2) may commence the business of insurance as an extended company.

Sec. 3. An extended company may:

(1) insure the property of policyholders of the extended

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company against loss or damage that is caused by:

- (A) fire;
- (B) windstorm;
- (C) causes specified under an extended coverage provision;
- and
- (D) other perils that are specified in the policy form;

(2) insure the property of policyholders of the extended company against:

- (A) loss of use;
- (B) loss of occupancy;
- (C) loss of rents; and
- (D) additional expenses;

that result from direct loss or damage to covered property; and

(3) provide other kinds of insurance that are approved by the commissioner.

Sec. 4. An extended company shall comply with the following financial and reinsurance requirements if the extended company provides the types of insurance described in section 3 of this chapter:

- (1) The extended company shall maintain a policyholder surplus as required under IC 27-1-6-15.
- (2) The net retention per risk that an extended company may maintain may not exceed two-tenths percent (0.2%) of the extended company's insurance in force.

Sec. 5. (a) An extended company:

(1) may collect a membership fee and an initial premium charge that are prescribed by the board of directors of the extended company; and

(2) shall collect, not less than annually, an amount that is sufficient to enable the extended company to:

- (A) pay losses and expenses; and
- (B) create and maintain a policyholder surplus in accordance with the articles of incorporation and bylaws of the extended company.

(b) Collections under subsection (a) are subject to the following requirements:

- (1) Collections must be made through assessments or premiums charged by the extended company on certain insurance policies issued by the extended company as determined by the board of directors of the extended company.

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(2) A policyholder that holds an insurance policy that is issued on a basis other than a premium basis:

(A) may be charged an advance assessment that is payable not later than the time at which the insurance policy is issued, as determined by the board of directors of the extended company; and

(B) may be assessed if a further assessment is required under the articles of incorporation of the extended company.

(c) The terms and conditions of assessments made under this section must be clearly disclosed in the insurance policy.

Sec. 6. The following requirements apply to the policyholder surplus of an extended company:

(1) The articles of incorporation of the extended company must provide for the existence, maintenance, and use of the policyholder surplus.

(2) The policyholder surplus may be used only for the payment of losses and expenses considered necessary by the board of directors of the extended company.

(3) The existence or maintenance of the policyholder surplus does not relieve a policyholder of any assessment or other obligation that the:

(A) policyholder owes to the extended company; or

(B) extended company has levied against the policyholder.

(4) If the extended company is dissolved, the policyholder surplus must be treated in the same manner as any other asset of the extended company.

Sec. 7. An extended company shall make investments in accordance with IC 27-1-13-3.

Sec. 8. (a) An extended company shall, not later than March 1, prepare and file with the commissioner an annual statement:

(1) that is on a form prescribed by the commissioner;

(2) that is verified by an affidavit of the:

(A) president; and

(B) secretary;

of the board of directors of the extended company; and

(3) that reflects the condition of the extended company as of the end of the calendar year immediately preceding the date of the annual statement.

(b) An annual statement prepared and filed under subsection (a) must be presented at the annual meeting of the extended company.

(c) An annual statement filed under subsection (a) must be

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1 **accompanied by the filing fee set forth in IC 27-1-3-15.**

2 SECTION 9. IC 27-6-1.1-6 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. This chapter does not
4 apply to any of the parties to a contract of merger or consolidation
5 under ~~IC 27-5-4-3~~. **IC 27-5.1-2-21.**

6 SECTION 10. IC 27-6-2-1 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Every ~~farmers' farm~~
8 mutual insurance company authorized on or after March 11, 1955, to
9 make the kinds of insurance and reinsurance permitted under and
10 pursuant to the provisions of ~~IC 27-5-3~~ **IC 27-5.1-2** is hereby
11 authorized to write, make, or take, in addition to the kinds of
12 reinsurance authorized under ~~IC 27-5-3~~, **IC 27-5.1-2**, any kind or kinds
13 of reinsurance on lines of insurance or hazards which they cede and
14 shall not write, make, or take reinsurance on any hazard or lines of
15 insurance that they do not themselves cede to other reinsurers.

16 SECTION 11. IC 27-6-2-2 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The rights and
18 powers conferred in this chapter shall be supplemental and in addition
19 to those conferred by law as of March 11, 1955, upon such ~~farmers'~~
20 **farm** mutual insurance companies.

21 SECTION 12. IC 27-6-8-4 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. As used in this
23 chapter, unless otherwise provided:

- 24 (1) The term "account" means any one (1) of the three (3)
25 accounts created by section 5 of this chapter.
- 26 (2) The term "association" means the Indiana Insurance Guaranty
27 Association created by section 5 of this chapter.
- 28 (3) The term "commissioner" means the commissioner of
29 insurance of this state.
- 30 (4) The term "covered claim" means an unpaid claim which arises
31 out of and is within the coverage and not in excess of the
32 applicable limits of an insurance policy to which this chapter
33 applies issued by an insurer, if the insurer becomes an insolvent
34 insurer after the effective date (January 1, 1972) of this chapter
35 and (a) the claimant or insured is a resident of this state at the
36 time of the insured event or (b) the property from which the claim
37 arises is permanently located in this state. "Covered claim" shall
38 be limited as provided in section 7 of this chapter, and shall not
39 include (1) any amount due any reinsurer, insurer, insurance pool,
40 or underwriting association, as subrogation recoveries or
41 otherwise. However, a claim for any such amount, asserted
42 against a person insured under a policy issued by an insurer which

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has become an insolvent insurer, which if it were not a claim by or for the benefit of a reinsurer, insurer, insurance pool or underwriting association, would be a "covered claim" may be filed directly with the receiver or liquidator of the insolvent insurer, but in no event may any such claim be asserted in any legal action against the insured of such insolvent insurer; nor (2) any supplementary obligation including but not limited to adjustment fees and expenses, attorney fees and expenses, court costs, interest and bond premiums, whether arising as a policy benefit or otherwise, prior to the appointment of a liquidator; nor (3) any unpaid claim that is not both filed within one (1) year after an order of liquidation and permitted to share in liquidation distributions under IC 27-9-3-33 if the insolvent insurer is a domestic insurer or in accordance with the applicable provisions of the law of the state of domicile if the insolvent insurer is not a domestic insurer; nor (4) any claim by a person whose net worth at the time an insured event occurred was more than five million dollars (\$5,000,000); nor (5) a claim against a person insured by an insolvent insurer if the person's net worth at the time an insured event occurred was more than fifty million dollars (\$50,000,000); nor (6) any claim by a person who directly or indirectly controls, is controlled, or is under common control with an insolvent insurer on December 31 of the year before the order of liquidation. All covered claims filed in the liquidation proceedings shall be referred immediately to the association by the liquidator for processing as provided in this chapter.

(5) The term "insolvent insurer" means (a) a member insurer holding a valid certificate of authority to transact insurance in this state either at the time the policy was issued or when the insured event occurred and (b) against whom a final order of liquidation, with a finding of insolvency, to which there is no further right of appeal, has been entered by a court of competent jurisdiction in the company's state of domicile. "Insolvent insurer" shall not be construed to mean an insurer with respect to which an order, decree, judgment or finding of insolvency whether preliminary or temporary in nature or order to rehabilitation or conservation has been issued by any court of competent jurisdiction prior to January 1, 1972 or which is adjudicated to have been insolvent prior to that date.

(6) The term "member insurer" means any person who is licensed or holds a certificate of authority under IC 27-1-6-18 or IC 27-1-17-1 to transact in Indiana any kind of insurance for

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which coverage is provided under section 3 of this chapter, including the exchange of reciprocal or inter-insurance contracts. The term includes any insurer whose license or certificate of authority to transact such insurance in Indiana may have been suspended, revoked, not renewed, or voluntarily surrendered. A "member insurer" does not include ~~farmers' farm~~ mutual insurance companies organized and operating pursuant to ~~IC 27-5, IC 27-5.1~~ other than ~~IC 27-5-3 and IC 27-5-4-2~~; **a farm mutual insurance company to which IC 27-5.1-2-6 applies.**

(7) The term "net direct written premiums" means direct gross premiums written in this state on insurance policies to which this chapter applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct premiums written" does not include premiums on contracts between insurers or reinsurers.

(8) The term "person" means an individual, corporation, limited liability company, partnership, reciprocal or inter-insurance exchange, association, or voluntary organization.

SECTION 13. IC 27-8-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) As used in this chapter:

"Account" means one of the three (3) accounts created under section 3 of this chapter.

"Association" means the Indiana life and health insurance guaranty association created under section 3 of this chapter.

"Commissioner" refers to the commissioner of insurance.

"Contractual obligation" means an obligation under covered policies.

"Covered policy" means any policy or contract that is of a type described in section 1(a) of this chapter and is not excluded by section 1(b) of this chapter.

"Impaired insurer" means a member insurer deemed by the commissioner to be potentially unable to fulfill its contractual obligations.

"Insolvent insurer" means a member insurer who becomes insolvent and is placed under a final order of liquidation, rehabilitation, or conservation by a court.

"Member insurer" means any person that is licensed or holds a certificate of authority to transact in Indiana any kind of insurance for which coverage is provided under this chapter. The term includes any insurer whose license or certificate of authority to transact such insurance in Indiana may have been suspended, revoked, not renewed,

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or voluntarily withdrawn but does not include the following:

- (1) A medical and hospital service organization.
- (2) A health maintenance organization under IC 27-13.
- (3) A fraternal benefit society under IC 27-11.
- (4) The Indiana Comprehensive Health Insurance Association or any other mandatory state pooling plan or arrangement.
- (5) An assessment company or any other person that operates an assessment plan (as defined in IC 27-1-2-3(y)).
- (6) An interinsurance exchange authorized by IC 27-6-6.
- (7) A prepaid limited health service organization or a limited service health maintenance organization under IC 27-13-34.
- (8) A special service health care delivery plan under IC 27-8-7.
- (9) A ~~farmer's farm~~ mutual insurance company under ~~IC 27-5-~~
IC 27-5.1.
- (10) Any person similar to any person described in subdivisions (1) through (9).

"Premiums" means direct gross insurance premiums and annuity considerations received on covered policies, less return premiums and considerations, and dividends paid or credited to policyholders on direct business. It does not include premiums and considerations on contracts between insurers and reinsurers. For purposes of assessments made under section 6 of this chapter, "premiums" for covered policies shall not be reduced on account of any limitation on benefits for which the association is obligated under section 5(1) of this chapter. However, "premiums" for assessment purposes does not include that portion of any premium exceeding five million dollars (\$5,000,000) for any one (1) unallocated annuity contract.

"Person" means any natural person, corporation, limited liability company, partnership, association, voluntary organization, trust, governmental organization or entity, or other business organization or entity.

"Resident" means any person who resides in Indiana at the time the association becomes obligated for an impaired or insolvent insurer. Persons other than natural persons are considered to reside in the state where their principal place of business is located.

"Unallocated annuity contract" means an annuity contract or group annuity certificate that is not issued to and held by a natural person (excluding a natural person acting as a trustee), except to the extent of any annuity benefits guaranteed to a natural person by an insurer under the contract or certificate. For the purposes of section 1.5 of this chapter, an unallocated annuity contract shall not be considered a group covered policy.



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(b) For purposes of this chapter, a policy, contract, or certificate is considered to be held by the person identified on the policy, contract, or certificate as the holder or owner of the policy, contract, or certificate.

SECTION 14. IC 34-30-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. This chapter applies to all insurers, including ~~farmers'~~ **farm** mutual insurance companies operating under ~~IC 27-5~~. **IC 27-5.1**.

SECTION 15. IC 27-5 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 16. [EFFECTIVE JULY 1, 2003] **(a) Notwithstanding IC 27-5.1-2-20, as added by this act, before January 1, 2004, an insurance producer that solicits, negotiates, or sells policies issued by a standard farm mutual insurance company that held a certificate of authority to conduct insurance business in Indiana on June 30, 2003, may continue to solicit, negotiate, or sell the same insurance that the insurance producer was previously authorized to sell and is not required to take the examination required under IC 27-1-15.6.**

(b) This SECTION expires January 1, 2004.

SECTION 17. [EFFECTIVE JULY 1, 2003] **A rate or form filed by a farm mutual insurance company before July 1, 2003, is valid and remains in effect notwithstanding the repeal of IC 27-5 by this act and the addition of IC 27-5.1 by this act.**

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